

Alberts has been discussed in a previous response. Examiner has made a few changes to the comments relative to Alberts that were not present in the earlier Office Actions. Specifically, Examiner notes that advertisements can be intensified at different times or issued upon certain triggering events. In response, Applicant notes that Alberts states: "Alternatively, an advertiser may want a concentration or intensification of ads at particular times, perhaps in response to a *profile of users*, e.g., different times for children versus adults, or for people accessing the site from home versus work." Col. 1, lines 43-50 (Italics added). It is instructive to observe that a profile of users is most definitely not the same as a user's profile. Once again, the problems being addressed by Albert and by Applicant are different and Applicant's claims reflect the difference: "accepting a subscriber profile including an advertising preference and a time of delivery" (claim 1). Thus, Applicant's claimed invention is for an individualized subscriber ("delivering the content...to the subscriber when said current time determination matches said time of delivery preference" (claim 1)) not for a class of users, e.g. children, preselected by Alberts' web site administrator: "It would be desirable for a web site administrator that sells ads based on a number of hits per day to have an efficient way to cause the appropriate number of ads to be served and to be able to adapt to different situations in a flexible manner." Col. 1, lines 49-52. In summary, Alberts does not disclose:

- a) an accepting of a subscriber profile including an advertising preference and a time of delivery preference,
- b) a storing of the subscriber advertising profile at the server,
- c) a determining an attribute of and a time significance for an advertisement,
- d) a comparing of the subscriber advertising preference to the attribute,
- e) a determination of a current time of the subscriber,
- f) a comparing of the current time to the time significance, and
- g) a delivering of the content and the included advertisement ...when the current time determination matches the time of delivery preference.

Tso has been introduced to supply the missing elements and has been discussed in earlier responses. Tso's server, a17, contains positional information for its users and a user profile that is contained in a subscriber database 53 "...including such information as

gender, income, interests, employment and other demographic information". Col. 4, lines 36-39. The subscriber database is, itself, stored at least at Tso's user home Infocast server. Note that the specific requirements of subscriber advertising preference and subscriber time of delivery, important elements in Applicant's system and claimed invention, are missing from Tso's subscriber database. Consequently, the subscriber advertising preference and the subscriber time of delivery cannot be found stored at Tso's server. Therefore, if we combine the best disclosures and suggestions from Tso with Alberts, we still do not realize the claimed invention because the following elements are missing:

- a) an accepting of a subscriber profile including an advertising preference and a time of delivery preference,
- b) a storing of the subscriber advertising profile at the server,
- d) a comparing of the subscriber advertising preference to the attribute, and
- g) a delivering of the content and the included advertisement ...when the current time determination matches the time of delivery preference.

In the current rejection, Batachia is introduced to overcome the missing elements. Since Batachia is not an effective reference, its combination with Alberts and Tso is improper. Alberts and Tso, together and alone, do not make Applicant's claimed invention obvious. Applicant's earlier response has been deemed sufficient to overcome the obviousness rejection based on the combination of Tso and Alberts.

Accordingly, since neither Alberts nor Tso, taken alone or in combination, teach or suggest the invention as now claimed and Batachia cannot be an effective reference, a rejection of the claims under 35 U.S.C. §103 is not proper. Therefore, in view of the foregoing, Applicant believes the present Application to be in a condition suitable for allowance. Examiner is respectfully urged to enter the present Amendment, withdraw the rejections, and pass the present Application to allowance. In the alternative, Examiner is urged to enter the present Amendment as placing the present Application in a condition better suited for review upon appeal.

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Patent

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Respectfully submitted,

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By:

A handwritten signature in cursive script, appearing to read "Raymond A. Jenki", written over a horizontal line.

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